



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-HQ-MB-2023-N033; FF07CAFB00/223/FXFR13350700001; OMB

Control Number 1018-0146]

Agency Information Collection Activities; Submission to the Office of Management and Budget; Depredation and Control Orders

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection without change.

DATES: Interested persons are invited to submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review – Open for Public Comments" or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041-3803 (mail); or by email to Info_Coll@fws.gov. Please reference "1018-0146" in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection

Clearance Officer, by email at *Info_Coll@fws.gov*, or by telephone at (703) 358-2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

On September 23, 2022, we published in the *Federal Register* (87 FR 58124) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on November 22, 2022. In an effort to increase public awareness of, and participation in, our public commenting processes associated with information collection requests, the Service also published the *Federal Register* notice on Regulations.gov (Docket FWS-HQ-MB-2022-0139) to provide the public with an additional method to submit comments (in addition to the typical *Info_Coll@fws.gov* email and U.S. mail submission methods). We received three comments in response to that notice. However, none of the comments addressed the information collection, so no response is required.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the

public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 *et seq.*) implements four treaties concerning migratory birds signed by the United States with Canada, Mexico, Japan, and Russia. These treaties require that we

preserve most U.S. species of birds, and prohibit activities involving migratory birds, except as authorized by regulation. Under the MBTA, it is unlawful to take, possess, import, export, transport, sell, purchase, barter—or offer for sale, purchase, or barter—migratory birds or their parts, nests, or eggs, except as authorized by regulation. This information collection is associated with our regulations that implement the MBTA. We collect information concerning depredation actions taken to determine the number of take of birds of each species each year and whether the control actions are likely to affect the populations of those species.

We are not revising any information collections with this submission. However, on January 7, 2022, we issued a final rule (87 FR 876) to renumber, rename, and rearrange certain subparts and sections in our regulations at 50 CFR parts 21 and 22. We updated the citations for the information collections contained in 50 CFR 21 subpart D in this submission, to include those in FWS Form 3-2436, Annual Report.

FWS Form 3-2436, “Depredation and Control Orders – Annual Reporting”

Regulations at 50 CFR 21 establish depredation orders and impose reporting and recordkeeping requirements. All persons or entities acting under depredation orders must provide an annual report. The capture and disposition of all non-target migratory birds, including endangered, threatened, or candidate species, must be reported on Form 3-2436. In addition to the name, address, phone number, and email address of each person or entity operating under the order, we collect the following information for each target and non-target species taken:

- Species taken,
- Number of birds taken,

- Months and years in which the birds were taken,
- State(s) and county(ies) in which the birds were taken,
- General purpose for which the birds were taken (such as for protection of agriculture, human health and safety, property, or natural resources), and
- Disposition of non-target species (released, sent to rehabilitation facilities, etc.).

We use the information to:

- Identify the person or entity acting under depredation orders;
- Assess the impact to non-target migratory birds or other species;
- Ensure that agencies and individuals operate in accordance with the terms, conditions, and purpose of the orders;
- Inform us as to whether there are areas in which control activities are concentrated and might be conducted more efficiently; and
- Help gauge the effectiveness of the following orders in mitigating order-specific related damages:

§21.150 – Depredation order for blackbirds, cowbirds, crows, grackles, and magpies;

§21.153 – Depredation order for horned larks, house finches, and white-crowned sparrows in California;

§21.156 – Depredation order for depredating California scrub jays and Steller's jays in Washington and Oregon;

§21.159 – Control order for resident Canada geese at airports and military airfields;

§21.162 – Depredation order for resident Canada geese nests and eggs;

§21.165 – Depredation order for resident Canada geese at

agricultural facilities;

§21.168 – Public health control order for resident Canada geese;

§21.171 – Control order for purple swamphens;

§21.174 – Control order for Muscovy ducks in the United States;

§21.177 – Control order for invasive migratory birds in Hawaii;

§21.180 – Conservation order for light geese; and

§21.183 – Population control of resident Canada geese.

Recordkeeping Requirements (50 CFR 13.48)

Persons and entities operating under these orders must keep accurate records to complete Form 3-2436. The records of any taking must be legibly written or reproducible in English and maintained for 5 years after the persons or entities have ceased the activity authorized by this order. Persons or entities who reside or are located in the United States and persons or entities conducting commercial activities in the United States who reside or are located outside the United States must maintain records at a location in the United States where the records are available for inspection.

Endangered, Threatened, and Candidate Species Take Report (50 CFR 21)

If attempts to trap any species under a depredation order injure a bird of a non-target species that is federally listed as endangered or threatened, or that is a candidate for listing, the bird must be delivered to a rehabilitator and must be reported by phone or email to the nearest Service Field Office or Special Agent. Capture and disposition of all non-target migratory birds must also be reported on the annual report.

Required Notifications (50 CFR 21)

- §21.150 – Report take of nontarget federally protected migratory birds to the nearest Service Field Office or Special Agent.
- §21.159 – Airports and military airfields or their agents must obtain authorization from landowners for all management activities conducted outside the airport or military airfield's boundaries.
- §21.159 – Airports and military airfields or their agents must notify Service Ecological Services offices if control activities are proposed in or around occupied habitats.
- §21.162 – Registrants may conduct resident Canada goose nest and egg destruction activities at any time of year. Homeowners' associations and local governments or their agents must obtain landowner consent prior to destroying nests and eggs on private property within the homeowners' association or local government's jurisdiction and comply with all State and local laws and regulations.
- §21.162 – To protect certain species from being adversely affected by management actions, registrants must contact the Service if control activities are proposed in or around occupied habitats to discuss the proposed activity and ensure that implementation will not adversely affect protected species or their habitat.
- §21.168 – Information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1-800-327-BAND (or 2263) (U.S. Geological Survey OMB Control Number 1028-0082).
- §21.162 – Information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free

telephone number at 1-800-327-BAND (or 2263) (USGS OMB Control Number 1028-0082).

- §21.168 – Any State or Tribal employee or designated agent conducting such activities must promptly furnish whatever information is required concerning such activities to any such wildlife officer.
- §21.168 – To protect certain species from being adversely affected by management actions, registrants must contact the Service if control activities are proposed in or around occupied habitats, to discuss the proposed activity and ensure that implementation will not adversely affect protected species or their habitat.
- §21.171 – Authorized individuals operating under this order must immediately report the take of any other species protected under the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*), the MBTA, or the Bald and Golden Eagle Protection Act to the nearest Service Ecological Services office.
- §21.174 – Authorized individuals operating under this order must immediately report the take of any species protected under the ESA, or any other bird species protected under the MBTA, to the Service Ecological Services office for the State or location in which the take occurred.
- §21.174 – Authorized individuals operating under this order must obtain appropriate landowner permission before conducting activities authorized by this order.
- §21.177 – Authorized personnel must obtain authorization from landowners prior to conducting management activities authorized by this order.

- §21.177 – Authorized individuals operating under this order must immediately report the take of any species protected under the ESA or MBTA within 72 hours of take to the Pacific Region Migratory Bird Permit office in Portland, Oregon.
- §21.183 – Authorized individuals operating under this section must immediately report the take of any species protected under the ESA to the Service.

Conservation Order for Light Geese (50 CFR 21.180)

We published a final environmental impact statement on light goose management in June 2007 and reaffirmed §21.180 in a final rule published on November 5, 2008 (73 FR 65926). This final rule superseded the Arctic Tundra Habitat Emergency Conservation Act, which is no longer in effect. These regulations impose require States and Tribes keep annual records of activities carried out under the authority of the conservation order and submit an annual report summarizing activities conducted under the conservation order on or before September 15 of each year. Specifically, information must be collected on:

- The number of persons participating in the conservation order;
- The number of days people participated in the conservation order;
- The number of light geese shot and retrieved under the conservation order; and
- The number of light geese shot but not retrieved.

Conservation Order Participants - Provide Information to States (50 CFR 21.180)

Persons acting under the authority of the conservation order must permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement

officer free and unrestricted access over the premises on which such operations have been or are being conducted and must promptly furnish whatever information an officer requires concerning the operation.

Population Control of Resident Canada Geese (50 CFR 20.183)

We use the information required in 50 CFR part 21 to monitor the status of resident Canada goose populations and to assess the impacts that this alternative regulatory strategy may have on resident Canada goose populations.

Except for the nest and egg depredation order, there is no specified form for providing the information. The nest and egg depredation order employs a web-based computer registration system with screens designed to collect the appropriate information.

Annual Report - Airport Control Order (50 CFR 21.159)

Airports and military airfields exercising the privileges granted by this section must:

- Submit information on birds carrying metal leg bands to the Bird Banding Laboratory (§21.159(d)(4)). OMB has approved this information collection under OMB Control No. 1028-0082 (Interior; U.S. Geological Survey). We use this information to track geographic movement and survival of individual birds.
- Submit an annual report summarizing activities, including the date and numbers and location of birds, nests, and eggs taken, by December 31 (§21.159(d)(8)). We use this information to monitor the resident Canada goose populations in different areas of the country.
- Immediately report to the appropriate MB office the take of any species protected under the ESA (§21.159(d)(8)). This information

ensures that the program does not exceed incidental take limits authorized under section 7 of the ESA. Further, to protect certain species from being adversely affected by management actions, registrants must notify Service Ecological Services offices if control activities are proposed in or around occupied habitats.

Nest and Egg Depredation Order (50 CFR 21.162)

Landowners operating under this order must:

- Register with the Service using our web-based registration system (<https://epermits.fws.gov/eRCGR>) (§21.162(d)(1)). Registration includes name of landowner, names of designated agents, location of management activities, and contact information. The registration is valid for 1 year; the registrant must renew the registration each year he or she wishes to take nests and eggs. To renew the registration, the registrant must review the information and certify that it is correct. If any information entered during initial registration has changed, the registrant needs to enter only the revised information. We use this information for enforcement purposes and to contact registrants when there are questions regarding their report information. We provided OMB with screen shots of the registration Web site and a copy of the User Guide as supplementary documents.
- Complete an annual report summarizing the date (month), numbers, and locations of nests and eggs taken by October 31 (§21.162(d)(6)). We use this information to monitor the effectiveness of the program and the cumulative effect of the take of nests and eggs on various subpopulations of resident Canada

goose populations in different areas of the country. We distribute reports of the numbers of nests and eggs taken, by State and county, annually to the States, Flyway Councils, and Service biologists for their use in determining allowable take by other methods, including hunting seasons. We now also include this information on the registration Web site.

- Immediately report to the appropriate MB office the take of any species protected under the ESA (§21.162(d)(8)). This information ensures that the program does not exceed incidental take limits authorized under section 7 of the ESA.

Agricultural Depredation Order (50 CFR 21.165)

- Authorized agricultural producers and their employees and agents must submit information on birds carrying metal leg bands to the Bird Banding Laboratory (§21.165(d)(5)). This information is used to track geographic movement and survival of individual birds. OMB has approved this information collection under OMB Control No. 1028-0082 (Interior; U.S. Geological Survey).
- Recordkeeping Requirement (Private Sector Only) - Authorized agricultural producers must:
 - Keep and maintain a log that indicates the date and number of birds killed and the date and number of nests and eggs taken under this authorization;
 - Maintain the log for a period of 3 years (and records for 3 previous years of takings at all times thereafter); and
 - Make the log and any related records available to Federal, State, or Tribal wildlife enforcement officers (§21.165(d)(8)).

- Reporting Requirement (States and Tribes Only) - States and Tribes must submit by December 31 an annual report summarizing activities, including the numbers of birds, nests, and eggs taken and county where taken (§21.165(d)(10)). We use this information to monitor the resident Canada goose populations in different areas of the country.
- Persons operating under this order must immediately report to the appropriate migratory bird office the take of any species protected under the ESA (§21.165(d)(12)). This ensures that the program does not exceed incidental take limits authorized under section 7 of the ESA.

Public Health Control Order (50 CFR 21.168)

States and Tribes must:

- Submit information on birds carrying metal leg bands to the Bird Banding Laboratory (§21.168(e)(4)). This information is used to track geographic movement and survival of individual birds. OMB has approved this information collection under OMB Control No. 1028-0082.
- Promptly furnish whatever information is required concerning such activities to any Service special agent or refuge officer, State or Tribal wildlife or deputy wildlife agent, warden, protector, or other wildlife law enforcement officer (§21.168(e)(8)).
- Submit by December 31 an annual report summarizing activities, including the numbers and county of birds taken (§21.168(e)(9)). We use this information to monitor the resident Canada goose populations in different areas of the country.

- Immediately report to the appropriate MB office the take of any species protected under the ESA (§21.168(e)(10)). This ensures that the program does not exceed incidental take limits authorized under section 7 of the ESA.
- Notify Service Ecological Services offices if control activities are proposed in or around occupied habitats (§21.168(e)(10)(iv) and (v)).

Population Control of Resident Canada Geese (50 CFR 21.183)

States and Tribes:

- May request approval for the population control program. Requests must include a discussion of the State's or Tribe's efforts to address its injurious situations or a discussion of the reasons why the methods authorized by these regulations are not feasible for dealing with, or applicable to, the injurious situations that require further action. Requests must provide detailed information of the injuries that continue, why the authorized methods have not worked, and why methods not utilized could not resolve the injuries (§21.183(d)). This information is necessary for us to assess whether or not the program should be authorized.
- Must keep annual records of activities carried out under the authority of the program, including (1) the number of individuals participating in the program; (2) the number of days each individual participated in the program; (3) the total number of resident Canada geese shot and retrieved during the program; and (4) the number of resident Canada geese shot but not retrieved (§21.183(d)(7)). We use this information, in conjunction with take under other methods

and hunting seasons, to determine cumulative impacts on the various goose populations.

- Must submit by June 1 an annual report summarizing activities conducted under the program and an assessment of the continuation of injuries (§21.183(d)(7)(iv)). We use this information to determine if we should continue to authorize program activities.
- Must provide by August 1 an annual estimate of the breeding population and distribution of resident Canada geese in their State (§21.183(h)). We use this information to monitor the impacts of this program, as well as other authorized activities, on the population and to determine if we should continue to authorize program activities.

Endangered or Threatened Species Take Report (50 CFR 21.165 and 21.183)

Persons operating under §21.165 must immediately report the take of any species protected under the ESA to the Service. States may not undertake any actions under §21.183 if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the ESA. Persons operating under §21.183 must immediately report the take of any species protected under the ESA to the Service.

Title of Collection: Depredation and Control Orders Under 50 CFR 21, Subpart D.

OMB Control Number: 1018-0146.

Form Number: FWS Form 3-2436.

Type of Review: Renewal without change of a currently approved collection.

Respondents/Affected Public: State and Federal wildlife damage management personnel, farmers, and individuals.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for take reports and annually for annual reports.

Total Estimated Annual Nonhour Burden Cost: \$78,000 (each participating State/Tribe will incur for overhead costs (materials, printing, postage, etc.) associated with mailing surveys to conservation order participants).

Respondent	Activity	Annual No. of Respondents	Number of Submissions Each	Total Annual Responses	Avg. Time per Response (hours)	Total Annual Burden Hours*
Annual Report – Depredation Order (Form 3-2436)						
Individuals	Reporting	8	1	8	3	24
	Recordkeeping				1	8
Private Sector	Reporting	8	1	8	3	24
	Recordkeeping				1	8
Government	Reporting	11	1	11	3	33
	Recordkeeping				1	11
ePermits Annual Report – Depredation Order (Form 3-2436)						
Individuals	Reporting	8	1	8	2.5	20
	Recordkeeping				1	8
Private Sector	Reporting	8	1	8	2.5	20
	Recordkeeping				1	8
Government	Reporting	11	1	11	2.5	28
	Recordkeeping				1	11
Report Take – Endangered, Threatened, and Candidate Species (§21.150, §21.159-21.177, and §21.183)						
Individuals	Reporting	1	1	1	.75	1
	Recordkeeping				.25	0
Private Sector	Reporting	3	1	3	.75	2
	Recordkeeping				.25	1
Government	Reporting	3	1	3	.75	2
	Recordkeeping				.25	1
Conservation Order for Control of Light Geese (§21.180)						
Government	Reporting	39	1	39	106	4,134
	Recordkeeping				8	312
Conservation Order Participants – Provide Information to States (§21.180)						
Individuals	Reporting	21,538	1	21,538	.13333	2,872
Annual Report – Airport Control Order §21.159						
Private Sector	Reporting	25	1	25	1	25
	Recordkeeping				.5	13
Government	Reporting	25	1	25	1	25
	Recordkeeping				.5	13
Initial Registration – Nest & Egg Depredation Order (§21.162)						
Individuals	Reporting	126	1	126	.5	63
Private Sector	Reporting	674	1	674	.5	337
Government	Reporting	200	1	200	.5	100
Renew Registration – Nest & Egg Depredation Order (§21.162)						
Individuals	Reporting	374	1	374	0.25	94

Private Sector	Reporting	2,026	1	2,026	0.25	507
Government	Reporting	600	1	600	0.25	150
Annual Report – Nest & Egg Depredation Order (\$21.162)						
Individuals	Reporting	500	1	500	.17	85
	Recordkeeping				.08	40
Private Sector	Reporting	2,700	1	2,700	.17	459
	Recordkeeping				.08	216
Government	Reporting	800	1	800	.17	136
	Recordkeeping				.08	64
Recordkeeping – Agricultural Depredation Order (\$21.165)						
Private Sector	Recordkeeping	600	1	600	0.5	300
Annual Report – Agricultural Depredation Order (\$21.165)						
Government	Reporting	20	1	20	7	140
	Recordkeeping				1	20
Annual Report – Public Health Order (\$21.168)						
Government	Reporting	20	1	20	.75	15
	Recordkeeping				.25	5
Annual Report and Recordkeeping – Population Control Approval Request (\$21.183)						
Government	Reporting	3	1	3	12	36
	Recordkeeping				12	36
Population Control Approval Request – Population and Distribution Estimates (\$21.183)						
Government	Reporting	3	1	3	160	480
Totals:		30,334		30,334		10,887

*Rounded to match ROCIS

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,
Information Collection Clearance Officer,
U.S. Fish and Wildlife Service.

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